IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

Con.Case(C).No. 1101 of 2007(S)

AGAINST THE JUDGEMENT/ORDER IN WPC.8209/2007 Dated 04/04/2007

.....

PETITIONER/PETITIONER

C.VISWANATHAN, S/O.C.UNNIKUTTY,
AGED 46 YEARS, SENIOR GRADE COMPUTER,
GOVERNMENT PRESS, KOZHIKODE.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENTS: RESPONDENT NO.2

SRI.M.ARCHANGELO,
FATHER'S NAME AND AGE IS NOT KNOWN TO THE
PETITIONER, THE DIRECTOR OF PRINTING,
DIRECTORATE OF PRINTING, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SMT.T.B.RAMANI

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN FINALLY HEARD ON 11/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J.

C.O.C No. 1101 of 2007

Dated this the 11th day of September 2007

JUDGMENT

This matter is filed on the strength of Annexure-I judgment issued disposing of 4 writ petitions in relation to the preparation of final seniority list in the Department of Printing. Following that judgment the final seniority list has been published . The contention of the petitioner is that, the final seniority list has been published disregarding the directions contained in Annexure-I judgment. Reliance is placed on the decision of the Apex Court in **State of Orissa and another Vs. Aswini kumar Baliar Singh 2006 (6) SCC 759** distinguishing, the earlier judgment of the Apex Court in **Director of Education, Uttaranchal Vs Ved Prakash Joshi 2005 (6) SCC 98** to urge that in the facts and circumstances of this case, the situation in hand calls for issuance of further directions to ensure the relief to the petitioner and others in a litigation which had been pending before the different courts for quite some time.

2. The directions issued by this Court in Annexure-I Judgment does not contain any specific guidelines to be followed in the manner of preparing the final seniority list. Obviously, the guidelines are contained in the statutory rules. That apart, this court was not setting aside the seniority list by holding that any particular decision taken by the

Government was faulted on the principle of a statutory provision.

3. The thrust of the grievance of the petitioner is that many of the unqualified hands still continue to find place in the seniority list and that a prolonged litigation of that issue is unnecessary to decide and identify such persons. It is pointed out that the errors are apparent on the face of the final seniority list published following Annexure -I judgment

4. Even assuming that further directions are issued, the fact remains that the seniority list is one provided by the statutory rules and interference with that seniority list, adverse to the interest of the persons who figure in that list could be had only in terms of the provisions of the statutory rules and the constitution, while it is not permissible to issue such orders without hearing such persons against whom the petitioner has complained, an adequate alternate remedy by way of a statutory appeal is also available before the Government against the final seniority list., It may be required in the circumstances, that the Government would expedite the consideration of any such appeal if filed, pointing out the specific grievances..

5. In the aforesaid circumstances without expressing anything on the merits of the seniority list or the contentions of the petitioner this case is

closed finding that there is no willful disobedience warranting action under the Contempt of Court Case Act. But directing that the petitioner may file an appeal against the final seniority list in question under Rule 27 B of Part II KS& SSR and it will be taken up, considered and dispose of by the Government in accordance with law with notice to the necessary parties and after affording an opportunity of pre-decisional hearing of those who are entitled to be heard. The final decision shall be rendered by the Government within an outer limit of six months from the date of receipt of a copy of this judgment or the appeal as aforesaid whichever is later, if such appeal is filed in accordance with law.

THOTTATHIL B.RADHAKRISHNAN,
JUDGE

es